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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/339,818	06/25/1999	MARK E. DAVIS	038134-50010	3090

28120 7590 05/19/2003

ROPES & GRAY LLP  
ONE INTERNATIONAL PLACE  
BOSTON, MA 02110-2624

EXAMINER

CRANE, LAWRENCE E

ART UNIT	PAPER NUMBER
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1623

33

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	Application No. : <b>09/339,818</b>	Applicant(s): <b>Davis et al.</b>	
	Examiner <b>L. E. Crane</b>	Group Art Unit <b>1623</b>	

**THE PERIOD FOR RESPONSE:** [check only a) or b)]

- a) ☐ expires 1 months from the mailing date of the final rejection.  
b) ☒ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 C.F.R. §1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 C.F.R. § 1.17 will be calculated from the date of the originally set shortened statutory period for response of as set forth in b) above.

☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on      (or within any period for response set forth above, whichever is later). See 37 C.F.R. § 1.19(d) and 37 C.F.R. § 1.192(a).

**Applicant's response to the final rejection, filed on -04/28/03- has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:**

- ☒ The proposed amendment(s):  
☐ will be entered upon the filing of a Notice of Appeal and an Appeal Brief.  
☒ will not be entered because:  
☒ they raise new issues that would require further consideration and/or search. (See note below).  
☐ they raise the issue of new matter. (See note below).  
☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issue for appeal.  
☒ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: Newly added claims appear to raise new issues and need for additional search.

- ☐ Applicant's response has overcome the following rejection(s):     .
- ☐ Newly proposed or amended claims -☐- would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because: Applicant has not supplied an amended claim 1 wherein the variable "A" is defined in a manner permitting search of the subject matter of the claim in its entirety.
- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):  
Claims allowed: NONE.  
Claims objected to: 30 and 33-34.  
Claims rejected: 1-3, 7-10, 18, 24-27, 31-32, 44 and 46.

☐ The proposed drawing correction filed on      ☐ has ☐ has not been approved by the Examiner.

☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s).     

☒ Other: See updated PTO-892.

LECRANE:lec

05/08/03

U.S. Patent Trademark Office

**JAMES O. WILSON**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**

PTO-303 (Rev. 6/19/01)

S. N. **09/339,818**

**Advisory Action**

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Paper No. **33**